
STATE OF INDIANA

DEPARTMENT OF LOCAL GOVERNMENT FINANCE



INDIANA GOVERNMENT CENTER NORTH
100 NORTH SENATE AVENUE N1058(B)
INDIANAPOLIS, IN 46204
PHONE (317) 232-3777
FAX (317) 974-1629

TO: County Commissioners and Councilors of Delaware County, Hamilton County, Hancock County, Johnson County, Madison County, and Marion County

FROM: Micah G. Vincent, Commissioner

RE: Central Indiana Mass Transit Project Referenda and Annual Reporting of Fares and Charges, Senate Enrolled Act 176-2014

DATE: May 19, 2014

On March 26, 2014, Governor Pence signed into law Senate Enrolled Act 176-2014 (“SEA 176”), effective July 1, 2014. Among other things, SEA 176 provides procedures for the establishment of a regional public transportation system in Central Indiana. This memo is limited to the provisions respecting the local public question and annual reporting of fares and charges to the Department of Local Government Finance (“Department”). This memo is for informational purposes only, and is not intended to be a substitute for reading the law.

I. Counties eligible to conduct referenda on public transportation projects, IC 8-25

Section 17 of SEA 176 adds IC 8-25 as a new article which, among other things, authorizes public referenda in eligible counties to adopt a local option income tax to participate in a Central Indiana public transportation project (“mass transit project”).

The following counties are eligible to participate in a mass transit project:

- 1) Delaware County.
- 2) Hamilton County.
- 3) Hancock County.
- 4) Johnson County.
- 5) Madison County.
- 6) Marion County.

Except as provided in IC 8-25-4-6, the fiscal body of an eligible county may adopt an ordinance to place on the ballot a local public question granting the fiscal body the authority to adopt a local option income tax to fund and carry out one mass transit project. The ordinance must include the following:

- 1) A description of the public transportation services that will be provided through the proposed mass transit project.
- 2) An estimate of each tax necessary to annually fund the mass transit project.

Upon adoption of the ordinance, the county auditor of the eligible county shall certify a copy of the ordinance and applicable ballot language to Department for review. If the Department determines the ballot language complies with IC 8-25-4, it must send its decision to the county auditor and the county fiscal body not more than ten (10) days after the ordinance is submitted to the Department. If the Department approves the ballot language, the county auditor shall certify a copy of the ordinance and ballot language, along with the Department's approval, to the county election board for placement on the ballot at the next general election.

The ballot language to be used for each eligible county is as follows:

1. Ballot language for Hamilton County and Marion County:

"Shall _____ County have the ability to impose a county economic development income tax rate, not to exceed a rate of _____ (insert recommended rate included in the ordinance authorizing the local public question), to pay for improving or establishing public transportation service in the county through a public transportation project that _____ (insert the description of the public transportation project set forth in the ordinance authorizing the local public question)?"

2. Ballot language for Delaware County and Madison County:

"Shall _____ County have the ability to impose a county option income tax rate, not to exceed a rate of _____ (insert recommended rate included in the ordinance authorizing the local public question), to pay for improving or establishing public transportation service in the county through a public transportation project that _____ (insert the description of the public transportation project set forth in the ordinance authorizing the local public question)?"

3. Ballot language for Hancock County and Johnson County:

"Shall _____ County have the ability to impose a county adjusted gross income tax rate, not to exceed a rate of _____ (insert recommended rate included in the ordinance authorizing the local public question), to pay for improving or establishing public transportation service in the county through a public transportation project that _____ (insert the description of the public transportation project set forth in the ordinance authorizing the local public question)?"

IC 8-25-4-6 states that an eligible county may carry out only one (1) mass transit project and prohibits the fiscal body of an eligible county from adopting a subsequent ordinance authorizing a public referendum after a public referendum has been approved by voters in the eligible county.

II. Annual reporting of fares and charges, IC 36-9-2-2

Section 19 amends IC 36-9-2-2 so that, under new subsection (b), an eligible county that establishes a public transportation system ("system") through a public transportation project must establish fares and charges that will cover at least twenty-five percent (25%) of the operating expenses of the system. An eligible county must also prepare an annual report on its compliance with this requirement not later than sixty (60) days after the close of its fiscal year.

This report must be submitted to the Department and made available for public access on the Gateway website. Under new subsection (c), the failure to prepare and disclose the report gives any person subject to a tax described in IC 8-25 a cause of action in the circuit court of the eligible county to compel the county officials to prepare and disclose the report not later than thirty (30) days after the court order mandating compliance with subsection (b).

Section 20 of SEA 176 amends IC 36-9-4-58, imposing the same requirements added by Section 19 to the public transportation corporation of Marion County.

Contact Information

Questions may be directed to Staff Attorney David Marusarz at (317) 233-6770 or dmarusarz@dlgf.in.gov.